

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

NOV 3 2006

CLERK, U.S. DISTRICT COURT

By Deputy

UNITED STATES OF AMERICA,

Plaintiff,

v.

JANICE DENICE WILLIS
A/K/A
JANICE DENICE TARRANT,

Defendant,

and

BAYLOR UNIVERSITY MEDICAL
CENTER,

Garnishee.

No.

3-06 CV-2025 M

APPLICATION FOR WRIT OF GARNISHMENT

The United States of America, makes application under 18 U.S.C. § 3613 and 28 U.S.C. §§ 3203-3206 to the Clerk of the United States District Court for the Northern District of Texas to issue a Writ of Garnishment upon the nonexempt property of Janice Denice Willis a/k/a Janice Denice Tarrant (Willis), who is a judgment debtor of the United States. This Writ of Garnishment is sought in connection with a judgment for the United States against Willis (Criminal Case No. 3:99-CR-274-D). Computation of the debt as of October 19, 2006 is:

\$20,000.00	Judgment Amount
(\$ 4,560.80)	Credits applied to Judgment
\$15,439.20	Current debt balance

The judgment debtor's full name is Janice Denice Willis a/k/a Janice Denice Tarrant, her social security number is 454-41-5079, and her last known address is 1605 N Houston School Road, Apt # 8202, Lancaster, Texas 75134. Not less than thirty (30) days have elapsed since demand on the debtor for payment of the debt was made and the debtor has not paid the amount due. The name and address of the Garnishee or its authorized agent is:

Baylor University Medical Center, and its affiliates, successors, or assigns
Brad Gahm, Registered Agent
2001 Bryan Street
Suite 2800
Dallas, TX 75201

The United States believes Baylor University Medical Center, and its affiliates, successors, or assigns, has possession of property in which Willis has a substantial nonexempt interest, including but not limited to, 25% of her disposable earnings as defined in 15 U.S.C. § 1673 and made applicable to this writ under 28 U.S.C. § 3003(c). See *U.S. v. Kaye*, 93 F. Supp. 2d 196 (D. Conn. 2000), involving criminal restitution, reflecting at pages 197-98:

On compliance with the procedures set forth in 28 U.S.C. § 3205, "the court shall issue a writ of garnishment." § 3205(c)(1).

The writ reaches "property in which the debtor has a substantial nonexempt interest", including "nonexempt disposable earnings," §§ 3205(a) and (c)(2)(F), which is defined as "25 % of disposable earnings." § 3002(9). "Disposable earnings" is defined as "that part of earnings remaining after all deductions required by law have been withheld." § 3002(5). 15 U.S.C. § 1673 sets a maximum reach for a garnishment at 25% of disposable earnings or the excess of his disposable earnings over thirty times the minimum hourly wage, 29 U.S.C. § 206(a)(1), whichever is less. The latter is not claimed to pertain.

In *Kaye*, the opinion also found that Court had the discretion to deny, limit, condition,

regulate, extend, or modify percentage criminal defendant's disposable earnings subject to garnishment. The United States questions this finding as unsupported by any further case history and being not within this Circuit.


In defining such "disposable earnings," *In re Robinson*, 240 B.R. 70 (Bankr. N.D. Ala. 1999) stated on page 100 of the following:

First, "amounts required by law to be withheld" include Mr. Robinson's portion of social security taxes, and the federal, state, and local withholding taxes on his earnings.

The United States is also entitled to a surcharge of ten (10) percent of the amount of the debt, under the provisions of 28 U.S.C. § 3011, in connection with the litigation of this post-judgment remedy.

Respectfully submitted,

RICHARD B. ROPER
UNITED STATES ATTORNEY


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Assistant United States Attorney
Texas State Bar No. 04652300
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Mattie.Compton@usdoj.gov

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS United States of America	DEFENDANTS Janice Denice Willis a.k.a. Janice Denice Tarrant
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES) Tarrant	County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) Dallas
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.	
(c) Attorney's (Firm Name, Address, and Telephone Number) The United States Attorney's Office, Burnett Plaza, Suite 1700 801 Cherry Street Unit 4, Fort Worth, TX 76102 - 817.389.2200	

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)												
<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	(For Diversity Cases Only) <table style="width: 100%;"> <tr> <td>Citizen of This State</td> <td>PTF <input type="checkbox"/> 1 DEF <input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td>PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4										
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Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6										

IV. NATURE OF SUIT (Place an "X" in One Box Only)	
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition
FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
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VI. CAUSE OF ACTION Brief description of cause: 28 U.S.C. 3205 - Garnishment

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ 15,439.20	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE Sidney A. Fitzwater	DOCKET NUMBER 3:99-CR274-D (01)
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DATE 11/2/06	SIGNATURE OF ATTORNEY OF RECORD Megan J. Tahery for Mattie Peterson Compton
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RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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